United Nations A/HRC/31/14/Add.1

General Assembly

Distr.: General
29 February 2016

Original: English

Human Rights Council
Thirty-first session
Agenda item 6
Universal Periodic Review

Report of the Working Group on the Universal Periodic Review*

Australia

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

* The present document was not edited before being sent to the United Nations translation services.

GE.16-03180(E)

Please recycle

1. Australia has considered the 290 recommendations received during the second cycle Universal Periodic Review (UPR) appearance on 9 November 2015.

2. Australia has developed a genuine response, noting there was limited time for full consideration across all levels of government. For this reason, some recommendations have been noted for further consideration.

3. Responses to recommendations are grouped thematically and responses to some recommendations appear under more than one heading where they relate to multiple issues.

4. Australia's planned monitoring mechanisms will provide scope to consider these issues further in the future.

International instruments

5. Australia is actively considering the ratification of the OPCAT.

6. Amendments to the Rome Statute are being considered in accordance with usual domestic processes. Australia is not intending to ratify additional international instruments at this time.

7. Australia will move to withdraw its reservation to CEDAW relating to the exclusion of women from combat roles. Australia is not in a position to withdraw any other reservations at this time.

8. Accordingly, Australia:

- **Notes** and will further consider 3 to 29, 55, 56;
- **Notes** but will not consider further at this time 1, 2, 30 to 54, 57, 59.

International engagement/foreign policy

9. Australia has submitted the ICESCR and CERD reports. All other overdue reports will be submitted in the first half of 2016.

10. Australia will continue to cooperate with all Special Procedures Mandate Holders including through maintaining standing invitations to visit Australia. Australia anticipates hosting visits from four Special Rapporteurs in 2016. Australia will consider all recommendations made in the course of these visits, as it has done with recommendations from previous visits, treaty bodies and the UPR.

11. Australia will continue its international advocacy for preventing mass atrocity crimes. Australia will continue to engage in dialogue and technical assistance in the field of human rights with partner countries.

12. Australia is unable to commit to a prescriptive foreign aid target until Australia is in an appropriate fiscal position to support such an aspiration. Australia's Intended Nationally Determined Contribution is a strong and fair contribution and comparable to those of other developed countries on a range of indicators.

13. Accordingly, Australia:

- **Accepts** 58, 60, 63, 218;
- **Notes** and will further consider 61, 62, 77, 95;
- **Notes** but will not consider further at this time 215 to 217, 219.

Domestic frameworks

14. Australia does not propose to alter its federal model of Parliamentary supremacy through the introduction of a judicially enforceable Human Rights Act.

15. The challenging fiscal climate requires savings from all government agencies. Savings measures have not been imposed on the Australian Human Rights Commission in a manner that impacts on its independence.

16. Australia will implement its voluntary commitment to develop a public and accessible process for monitoring Australia's progress against UPR recommendations, though does not propose to establish a National Human Rights Action Plan. Australia has engaged with civil society in formulating its response and discussions will continue following submission of the response.

17. Accordingly, Australia:

- **Accepts** 64, 66;
- **Notes** and will further consider 65;
- **Notes** but will not consider further at this time 67 to 73.

Anti-discrimination

18. Australia has comprehensive anti-discrimination laws at federal, state and territory level that are the subject of ongoing review and public debate. Australia will continue to focus policy effort on combatting all forms of discrimination, including racism.

19. The Australian Government is committed to supporting the National Anti-Racism Partnership Strategy and its related public awareness campaign, *Racism. It Stops With Me.*

20. Australia will continue its strong tradition of interfaith and intercultural dialogues. The Australian Multicultural Council, an advisory body to Government on issues of multicultural policy and programmes, provides support and advice to the Australian Government on interfaith and intercultural dialogues.

21. The Australian Government will continue to condemn terrorism and the actions of violent extremists, while maintaining respect and trust in the peaceful practice of all religious beliefs.

22. Accordingly, Australia **accepts** 81, 104, 117 to 121, 123 to 135, 137 to 140, 189, 191 on the basis of existing law, policy and action.

Indigenous Australians

23. Australia supports the rights of Indigenous Australians through existing laws, policies and programmes at federal, state and territory level. Australia's Aboriginal and Torres Strait Islander Social Justice Commissioner advocates for the recognition of the rights of Indigenous Australians and seeks to promote respect and understanding of these rights among the broader Australian community.

24. The Australian Government is continuing to implement the Indigenous Advancement Strategy and is working with state and territory governments to close the gap in Indigenous disadvantage, including by addressing the underlying causes of Indigenous disadvantage, increasing opportunities in health, education, housing and employment and addressing issues leading to incarceration and contact with child protection systems. The

Australian Government is committed to equal access to services for Indigenous Australians, including birth registration.

25. Australia supports the promotion of, and respect for, the principles of the Declaration on the Rights of Indigenous Peoples. Australia aims to ensure that laws and practical actions give effect to the aims of the Declaration. The Australian Government engages with Indigenous people on issues that affect them through various networks, including the Indigenous Advancement Strategy regional network, Indigenous community based organisations and other bodies.

26. The Australian Government will continue to support investment in remote communities through the Indigenous Advancement Strategy. States and territories are also undertaking work in this area.

27. Australia will continue to support the preservation and protection of Aboriginal and Torres Strait Islander arts, languages and cultures, including the return of secret and sacred materials and ancestral remains to communities.

28. Accordingly, Australia:

- **Accepts** 74, 78, 79, 81, 87 to 89, 92 to 94, 97 to 115, 123, 125, 127, 136, 171, 203 to 205 on the basis of existing law, policy and action;
- **Notes** and will further consider 91, 96;
- **Notes** 75, 76 pending the outcome of a referendum to recognise Indigenous Australians in the Constitution;
- **Notes** 80, 82 to 86, 90, 116.

Women's rights

29. Australia will continue to be a strong and committed advocate for gender equality, women's empowerment and the advancement of the rights of women and girls internationally.

30. Australia is committed to reducing the gap in workforce participation rates between men and women by 25% by 2025. The Australian Government will continue to support measures to reduce the pay gap, including the national pay equity campaign launched by the Workplace Gender Equality Agency in September 2014, the Male Champions of Change initiative, and measures to make childcare more affordable, accessible and flexible. The Australian Government has a gender diversity target of at least 40% women on Government boards.

31. Australia is committed to eradicating violence against women, especially family violence. Domestic violence is criminalised in Australian states and territories. Australia is implementing its *National Plan to Reduce Violence against Women and Their Children* as well as the recently announced $100 million Women's Safety Package. Australia will complete the independent evaluation of the Second Action Plan of the National Plan that is currently being undertaken. The Australian Government will continue to implement measures under these activities that pertain to women and girls with disabilities, those from culturally and linguistically diverse backgrounds, and Indigenous women.

32. Accordingly, Australia:

- **Accepts** 141 to 149, 151 to 153, 155 to 164 on the basis of existing law, policy and action;
- **Notes** 154 as domestic violence is criminalised at state and territory level.

Older Australians

33. Australia is committed to promoting and protecting the rights of older Australians. The Australian Government will consider the forthcoming recommendations of the Australian Human Rights Commission's *Willing to Work* inquiry into employment discrimination against older Australians and Australians with disability.

34. Accordingly, Australia **accepts** 124 and 209 on the basis of existing law, policy and action.

Disability

35. The Australian Government is currently working with state and territory governments to finalise the National Disability Strategy's second implementation plan, including the development of an Action Plan to improve outcomes for Indigenous Australians with a disability. Australia is also committed to strengthening disability-inclusive development in Australia's aid program through the *Development for All 2015-2020* strategy.

36. The Disability Employment Taskforce is currently reviewing disability employment services arrangements and developing a new Disability Employment Framework. A new JobAccess Gateway website will be established to improve access to information about disability employment to ensure people with disability and their employers are supported to achieve meaningful long-term employment outcomes. The Australian Government will consider the outcomes of *Willing to Work* and the recent Parliamentary Committee report on the treatment of persons with a disability in institutional settings. The Australian Law Reform Commission's *Equality before the Law* report is informing the Australian Government's policy development.

37. Australia will continue to consider how persons with disabilities can be better supported to make decisions. The Australian Government will continue implementing its voluntary commitment to improve the way the criminal justice system treats people with mental and/or cognitive disability.

38. A sterilisation procedure may only occur in Australia with the person's consent, or with authorisation from a court or guardianship tribunal if the person is unable to give valid consent. Australia does not propose any changes to these arrangements.

39. Accordingly, Australia:

- **Accepts** 123, 185, 186, 188, 190 to 192, 209 on the basis of existing law, policy and action;
- **Notes** and will further consider 187, 194 to 198;
- **Notes** but will not further consider at this time 180 to 184.

Sexual orientation, gender identity and intersex rights

40. The Australian Government will hold a plebiscite on same-sex marriage after the next federal election.

41. The Australian Government commits to removing exemptions for Australian state and territory laws from the operation of Australia's national anti-discrimination laws from 31 July 2016.

42. Accordingly, Australia:

- **Accepts** 221;
- **Notes** 220, 222 to 224 pending the outcome of the plebiscite.

Children and youth

43. Australia will implement the Third Action Plan under the National Framework for Protecting Australia's Children 2009-2020, released on 9 December 2015.

44. Australia will continue its commitment to providing universal access to healthcare, education and early childhood education, including to all Indigenous children. The Australian Government's needs based schools funding model allows schools and Indigenous communities the autonomy to pursue bilingual education, if they choose.

45. Australia will continue to focus on reducing contact of children and youth with the criminal justice system, but considers the age limit for criminal responsibility is appropriate. Mandatory sentences do not apply to any offences committed by children under federal law and most states and territories do not apply mandatory sentences for children. When determining the appropriate sentence for an offender, a court must take into account the age of the defendant. Australia does not sentence children to life imprisonment unless tried as an adult.

46. Juvenile justice centres in Australia provide secure and safe care of young people who are sentenced to custody or who are remanded pending the finalisation of their court matter. Children aged 16 years and over may be detained in adult prisons in specific circumstances, for example, where they cannot be properly managed in a youth facility.

47. Australia does not endorse corporal punishment as an approach to student behaviour management in schools. Corporal punishment is not a sentencing option in any juvenile justice system in Australia.

48. Accordingly, Australia:

- **Accepts** 166 to 170, 173, 175, 193, 211 on the basis of existing law, policy and action;
- **Notes** but will not further consider at this time 165, 174, 176 to 179;
- **Notes** 172.

Criminal justice and counter-terrorism

49. Any use of force by officials in Australia is safeguarded by oversight and accountability mechanisms, including independent ombudsmen and integrity commissions. Police are provided with education and training on human trafficking and slavery-related matters. The Australian Federal Police also has a cultural awareness and diversity education and training program.

50. Australia does not intend to abolish current mandatory sentencing arrangements or amend its electoral legislation regarding prisoners, considering the current exclusions proportional.

51. Australia will continue to ensure that national security, counter-terrorism and telecommunications interception legislation are subject to strict safeguards, oversight and ongoing review. Australia's data retention legislation will be reviewed by the Parliamentary Joint Committee on Intelligence and Security in 2019.

52. In Australia, dual citizens may only be deprived of their citizenship through certain conduct incompatible with the safety and shared values of the Australian community, including engaging in terrorist acts.

53. Accordingly, Australia:

- **Accepts** 150, 199, 200, 226 to 229, 234 on the basis of existing law, policy and action;
- **Notes** but will not consider further at this time 201, 202, 206.

Human trafficking

54. The Australian Government is committed to continuing comprehensive efforts to prevent and address human trafficking and slavery, as outlined in the *National Action Plan to Combat Human Trafficking and Slavery 2015-19*. The Australian Government will review and report on the National Action Plan annually, allowing for elaboration as appropriate to address emerging trends.

55. Accordingly, Australia **accepts** 230 to 233 on the basis of existing law, policy and action.

Migration, refugees and asylum seekers

56. Australia is committed to a managed and equitable system of migration, consistent with our international obligations and respectful of the human rights of migrants, refugees and asylum seekers. Australia respects and complies with its non-refoulement obligations.

57. Australia's strong immigration and border protection policies have enabled Australia to commit to increasing its intake of refugees in response to the humanitarian crisis in Syria and Iraq. The Australian Government has no plans to cease its policies of mandatory immigration detention, safely turning back boats or transferring people who arrive illegally by boat to other countries for processing and resettlement.

58. Australia recognises that the regional processing centres in Nauru and Papua New Guinea (PNG) are facilities within Nauru's and PNG's sovereign borders respectively. These centres operate under Nauruan and PNG jurisdiction and are subject to the laws of those countries.

59. Australia will continue to promote the safety of migrants and refugees and maintain high standards of health care and other services provided in its immigration detention centres. It remains the Australian Government's position that children who are illegal arrivals are not held in immigration detention centres, but are accommodated in alternative places of detention or community detention. Australia will continue to develop and enhance its policies and procedures to support the protection of children in immigration pathways and promote their welfare.

60. The Australian Government will continue to provide human rights organisations access to its detention centres, but access and conditions in processing centres outside its jurisdiction are a matter for those States.

61. Australia will continue to take into consideration the humanitarian aspects of a decision to expel a former permanent visa holder from Australia as the result of visa cancellation.

62. Accordingly, Australia:

- **Accepts** 123, 236, 239, 241 to 259, 261, 264 to 267, 269, 271, 273, 282, 283 on the basis of existing law, policy and action;
- **Notes** and will further consider 240;
- **Notes** but will not consider further at this time 237, 260, 262, 263, 268, 272, 275, 276, 278 to 280, 284 to 289;
- **Notes** 235, 238, 270, 274, 277, 281, 290.

Economic, social and cultural rights

63. The Australian Government will undertake a national consultation on the implementation of the UN Guiding Principles on Business and Human Rights during 2016.

64. The Australian Government's universal health insurance program, Medicare, ensures that all Australian permanent residents have access to a broad range of quality free or low-cost health services, including hospital care. Providing a broad range of health services in rural and remote settings remains an ongoing challenge, and the Australian Government is using health workforce distribution approaches and innovative service delivery models to address this imbalance in access to healthcare.

65. Accordingly, Australia:

- Accepts 213;
- Accepts 127, 207, 208, 210, 214 on the basis of existing law, policy and action;
- Notes 212 pending the outcome of consultations.

Other recommendations

66. Australia recognises families in all their diversity, including single parent families, families headed by same-sex couples and/or lesbian, gay, bisexual, transgender and intersex people, Indigenous kinship structures and other kinship structures from a variety of cultures.

67. Australia does not engage in enforced sterilisation or adoption of Indigenous women and children.

68. Accordingly, Australia **notes** 122 and 225.